

ESTTA Tracking number: **ESTTA474127**Filing date: **05/23/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	The Nest Collective, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1485 Park Avenue, Suite 200 Emeryville, CA 94608 UNITED STATES		

Attorney information	Karen S. Frank Coblentz, Patch, Duffy & Bass, LLP One Ferry Building, Suite 200 San Francisco, CA 94111 UNITED STATES tm@cpdb.com
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Registration Subject to Cancellation

Registration No	3275297	Registration date	08/07/2007
International Registration No.	NONE	International Registration Date	NONE
Registrant	Ulrich J&¼strich Holding AG Unterdorf CH-9428 Walzenhausen SWITZERLAND		

Goods/Services Subject to Cancellation

Class 005. All goods and services in the class are cancelled, namely: Food for babies, excluding preparation made from cereals

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	JUST_PetitionCancel.PDF (10 pages)(1979727 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/ksf/
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Name	Karen S. Frank
Date	05/23/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

THE NEST COLLECTIVE, INC.)	
)	
Petitioner,)	Mark: JUST and Design
)	Reg. No. 3,275,297
v.)	Reg. Date: August 7, 2007
)	
ULRICH JUSTRICH HOLDING AG,)	
)	
Registrant.)	
)	

PETITION FOR PARTIAL CANCELLATION

The Nest Collective, Inc. ("Petitioner"), a corporation organized and existing under the laws of the State of Delaware and having its principal place of business at 1485 Park Avenue, Suite 200, Emeryville, CA 94608, believes it is damaged and will continue to be damaged by U.S. Registration No. 3,275,297 (the "Registration"). The Registration issued on August 7, 2007 for the mark JUST and Design in Classes 5, 29, 30 and 32. Petitioner hereby petitions for partial cancellation of the Registration through deletion of the Class 5 goods: "Food for babies, excluding preparation [SIC] made from cereals," pursuant to 15 U.S.C. §§ 1067-68. As grounds for its Petition for Partial Cancellation, Petitioner asserts as follows:

1. Petitioner is engaged in the manufacture and sale of goods for infants, toddlers and children, including goods in International Class 5. Petitioner has filed the following applications for the mark JUST, for the following goods (Petitioner's Applications):

Mark	Serial No.	Goods
JUST	85/288,301	Food for babies, namely organic vegetable purees
JUST	85/288,294	Food for babies, namely organic fruit purees

2. Petitioner's Applications have been refused by the PTO on the grounds of likelihood of confusion with Registrant's JUST and Design Registration for goods in Class 5, namely "food for babies, excluding preparation made from cereals." Petitioner's Application 85/288,301 has been finally refused registration by the Trademark Attorney, and a Petition for Reconsideration and Appeal have been filed. If this Petition to restrict the scope of the goods in the Registration is granted, then the likelihood of confusion found by the USPTO between the Registration and Petitioner's Applications will be avoided, thereby protecting the public interest.

3. Petitioner began using the JUST mark in connection with foods for babies in December 2009. Petitioner markets and sells its products through standard retail channels, including Whole Foods, Toys R Us, Amazon.com, Walgreens, Drugstore.com, Diapers.com, Wegmans, and other similar retail outlets.

4. Attached to this Petition as **Exhibit A** are printouts from pages from Registrant's main website at <http://www.just.ch> and its USA division at <http://www.swissjustusa.com/en/>. These pages show that Registrant's current products are exclusively in the cosmetics and body care field.

5. Further, Registrant's websites show that Registrant does not market or sell its products through standard retail channels but through a network of independent consultants and home-based businesses. Registrant specifies that one cannot buy its products in a store, but only through personal contact or via its own websites.

6. Petitioner's efforts to distinguish the parties' respective marks, target consumers and channels of trade were unsuccessful with the Trademark Attorney, who alleged that Applicant's goods are essentially the same as the Class 5 goods in the Registration and that a likelihood of confusion exists. If the Registration is properly restricted to delete the Class 5 goods with which

the Registrant has not used its mark, Petitioner, on information and belief, alleges that the refusals to register Petitioners' above-noted Applications will be withdrawn.

7. The Registrant is not currently using, nor has Registrant since registration of its mark ever used, Registrant's mark in connection with food for babies. To the extent that Registrant could show that it has and does use its mark in connection with food for babies, it is submitted that such goods are distributed through personal consultants, personal contact, and Registrant's own websites and, therefore, that Registrant's products and Petitioners' products are not offered in the same channels of trade.

8. Petitioner is damaged and will continue to be damaged because Registrant's continued registration of JUST and Design in the Registration includes "food for babies." However, Registrant has never sold food for babies under the JUST and Design mark. As a result, the Registration improperly stands as a bar to Petitioner's ability to federally register and protect its marks.

9. If the Registration is properly restricted to delete "food for babies, excluding preparation made from cereals" it will eliminate any likelihood of confusion with Petitioner's Applications identified above.

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PRAYER FOR RELIEF

WHEREFORE, Petitioner believes it is damaged and will continue to be damaged by Registrant's continued registration of the JUST and Design mark for "food for babies, excluding preparation made from cereals." Petitioner prays that this Petition for Partial Cancellation of Registrant's Registration No. 3,275,297 be granted to delete from the Registration "food for babies, excluding preparation made from cereals," and that judgment be entered against Registrant.

DATED: May 23, 2012

Respectfully submitted,
COBLENTZ, PATCH, DUFFY & BASS, LLP

A handwritten signature in cursive script, reading "Karen Frank", written in dark ink.

Karen S. Frank
Attorneys for Petitioner
THE NEST COLLECTIVE, INC.

CERTIFICATE OF SERVICE

This undersigned hereby certifies that the foregoing Petition for Partial Cancellation was served this 23 day of May 2012, by depositing copies thereof in the U.S. mail, postage prepaid, addressed to the Registrant as follows:

Ulrich Justrich Holding AG
Unterdorf 62
CH-9428
Walzenhausen SWITZERLAND

Dated: May 23, 2012



Anna Olson
Trademark Paralegal

Neuheiten

Kräutercremen

Empfindliche Haut

Baden

Duschen

Deos

Gesichtspflege

Haarpflege

Handpflege

Körperpflege

Fusspflege

Bei Erkältung

Sonnenpflege

JUST FOR MEN

Aromatherapie

Spezialitäten

Tea Tree

Haushaltsprodukte

Zubehör

Sun Care



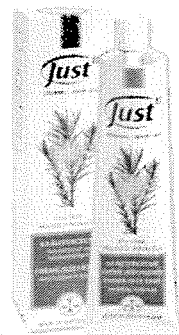
Ihr exklusives Geschenk

Beim Kauf des SUN CARE Milk Spray SPF 30 oder einer Milk SPF 30 + 2 weiteren SUN CARE Produkten, schenken wir Ihnen ein praktisches Badetuch.

Produkt des Monats

Natural Cream

Tea Tree Creme mit Manuka- und Rosalinaöl

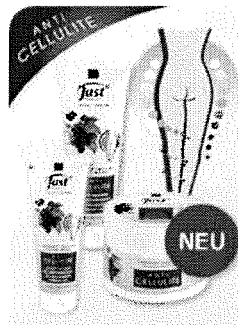


Reizmildernd, hautbesänftigend.

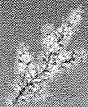
JUST verwendet nur Teebaumöl von bester Qualität. Der Cineol-Gehalt von 3% gewährleistet hohe Hautverträglichkeit, ein überdurchschnittlicher Terpinen-4-ol Anteil von mind. 43% sorgt für eine hohe Breitbandwirkung. JUST Teebaumöl ist ein reines Melaleuca alternifolia Öl von höchster Reinheit und Güte.

[Produkt-Details](#)

GELTERKINDER KIRSCH BODY DUSCH



Tea Tree Produkte: Teebaumöl



Natürliche antibakterielle
Breitbandwirkung

- Tea Tree Creme
- Tea Tree Öl (Aromatherapie)
- Tea Tree Haarpflege



JUST bei Facebook

Besuchen Sie uns - wir
verlosen jede Woche einen
attraktiven Preis

JUST Schweiz AG

Unterdorf 82

CH-9428 Walzenhausen

Tel. 0200 587 824

Die Pflege- und Heilkraft der Pflanzen seit 1930

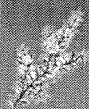


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Für Bestellungen und Fragen wenden Sie sich bitte an die jeweilige Vertretung



Tea Tree Produkte: Teebaumöl



Natürliche antibakterielle
Breitbandwirkung

- Tea Tree Creme
- Tea Tree Öl (Aromatherapie)
- Tea Tree Haarpflege



JUST bei Facebook

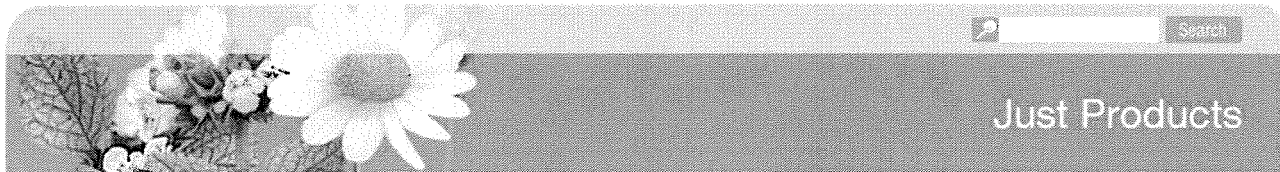
Besuchen Sie uns - wir
verlosen jede Woche einen
attraktiven Preis. Zum
Wettbewerb

JUST Schweiz AG

Unterdorf 62

CH-9428 Walzenhausen

Tel. 0800 587 824



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- Body Balm
- Chamomile Hand Cream
- Deo Intim
- Eucasol
- Juniper Cream



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- Aromatherapy
- Emotional Well-Being
- Physical Well-Being
- Dermo-Cosmetic Well-Being



Products by Specific Needs

- Anxiety, nervous tension, stress
- Emotional fatigue, tiredness, exhaustion
- Tension that causes headaches and migraines
- Spasms, cramps
- Cellulite (Orange Peel skin)
- Scars, stretch marks
- Others

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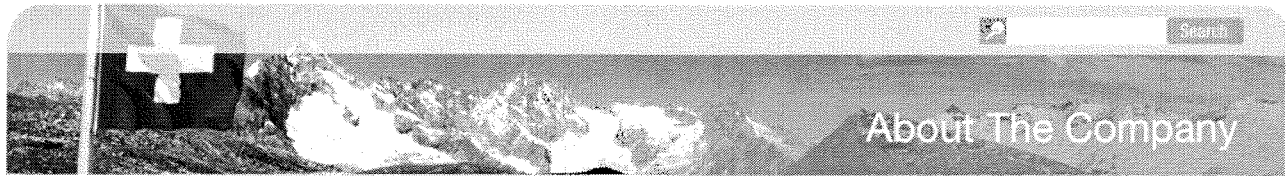
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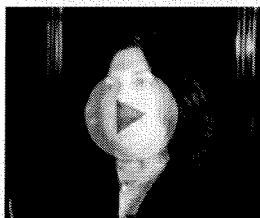
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